IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO 1154 of 2005
to
FIRST APPEAL NO 1167 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SPL.LAQ OFFICER

Versus

BABUBHAI POPATBHAI

Appearance:
1. First Appeal No. 1154 of 2005
MR SIRAJ GORI, AGP, for Appellant No.
MR AJ PATEL for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 13/05/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

1. All these Appeals are admitted. Shri AJ Patel

appears and waives service of Notice for all the respondents - claimants. At the joint request of learned Counsel for the parties all these Appeals are taken up for final disposal and disposed of by this common Order as they arise out of the impugned common Judgment and order dated 12.11.2002 passed by the learned Extra Assistant Judge and Special Judger (LAR), Ahmedabad (Rural) at Mirzapur, Ahmedabad, in LA Case Nos.1867 to 1980 of 1996 whereby the Reference Court partly allowed all the Reference and awarded additional sum of Rs.13/per sq.mtr. over and above Rs.1.20 ps. and Rs.1.80 ps. per sq.mtr. awarded by the Land Acquisition Officer to the respondents - claimants against their claim of Rs. 40/per sq.mtr.

2. Learned AGP Shri Siraj Gori for the Appellant Special Land Acquisition Officer vehemently submitted that the learned Reference Court committed grave error in awarding additional sum of Rs.13/- on the basis of Award of nearby villages. He submitted that when there was a previous Award of the Reference Court for this very village Jakhwada in LAR Nos.714 to 716 of 1986 on record of the case at Ex.60 then on the basis of it the Reference Court should have passed the Award. He submitted that in the Judgment Ex.60 delivered by the Reference Court in LAR No.714 to 716 of 1986, the Notification u/s.4 of the Land Acquisition Act was published on 5.1.1984 and the District Court awarded in all Rs.7/- per sq.mtr. whereas in the instant case the Notification u/s. 4 was issued on 29.8.1991, therefore, in the instant case the claimants should be entitled to Rs.11.90 ps. and not Rs.13/- per sq. awarded by the Reference Court.

3. When there is a Judgment of very village Jankhwada was on record of the Reference Court then, without considering other evidence on record, on the basis of the said Judgment the Reference Court should have awarded the additional sum. In LAR Case Nos.714 to 716 of 1996 the total amount awarded to the claimant was Rs.7/- per sq.mtr. whereas in the instant case the Notification u/s.4 was of 1991, therefore, multiplying by 7, it would come to Rs.4.90 ps. Adding the said amount to Rs.7/- it would come to Rs.11.90 ps. Thus, in all, the claimants would be entitled for Rs.11.90 ps. including the amount awarded by the Land Acquisition Officer.

4. Accordingly, all these Appeals are partly allowed and the impugned common Judgment and Award passed by the Reference Court is modified and it is held that the

respondents - claimants were entitled for total compensation at the rate of Rs.11.90 ps. per sq.mtr. Rest of the Judgment and Award passed by the Reference Court is not disturbed. Appeals are partly allowed with no order as to costs.

(B.J.Shethna, J.)
Date : May 13, 2005
(M. C. Patel, J.)

sas